

JUL 28 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

CARMEN ALDANA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-70441

Agency No. A79-522-561

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Carmen Aldana, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("Board") denial of her motion to reopen and reconsider the Board's earlier decision affirming an immigration judge's

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

denial of her application for cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252.

In her motion to reopen and reconsider, Aldana contended that the agency erred in failing to consider her hardship factors in assessing her eligibility for cancellation of removal. However, the agency did not address hardship because Aldana indisputably could not meet the physical presence requirement.

Accordingly, the Board did not abuse discretion in denying Aldana's motion. *See* 8 U.S.C. § 1229b(b)(1) (stating the requirements of exceptional and extremely unusual hardship, good moral character *and* ten years of continuous physical presence in order to qualify for cancellation relief).

PETITION FOR REVIEW DENIED.